



April 4, 2003

ENGROSSED HOUSE BILL No. 1437

DIGEST OF HB 1437 (Updated April 2, 2003 8:21 PM - DI 104)

Citations Affected: IC 10-13; IC 25-1; IC 25-23; IC 25-29.

Synopsis: Health professions bureau. Exempts the health professions bureau from paying a fee to obtain a limited criminal history record when investigating the background of a license applicant. Authorizes a health professions board to order a practitioner to submit to a physical or mental examination at the practitioner's expense and to require a practitioner to pay the administrative law judge costs in a disciplinary hearing. Adds an advanced practice nurse to the Indiana state board of nursing (board) and makes other changes to make up of the board. Changes the quorum requirements for the board. Provides that a license to practice podiatric medicine expires every two years. Requires the health professions bureau to randomly audit advanced practice nurse practice agreements and sets forth parameters of the audit.

Effective: July 1, 2003.

Welch, Reske, Becker
(SENATE SPONSORS — RIEGSECKER, BREAUX)

January 14, 2003, read first time and referred to Committee on Public Health.
February 10, 2003, amended, reported — Do Pass.
February 13, 2003, read second time, ordered engrossed. Engrossed.
February 17, 2003, read third time, passed. Yeas 90, nays 1.

SENATE ACTION

February 24, 2003, read first time and referred to Committee on Rules and Legislative Procedure. Reassigned to Committee on Health and Provider Services pursuant to Senate Rule 65(b).

April 3, 2003, amended, reported favorably — Do Pass.

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EH 1437—LS 6892/DI 107+



April 4, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1437

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-13-3-36, AS ADDED BY SEA 257-2003,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 36. (a) The department may not charge a fee for
4 responding to a request for the release of a limited criminal history
5 record if the request is made by a nonprofit organization:
6 (1) that has been in existence for at least ten (10) years; and
7 (2) that:
8 (A) has a primary purpose of providing an individual
9 relationship for a child with an adult volunteer if the request
10 is made as part of a background investigation of a prospective
11 adult volunteer for the organization;
12 (B) is a home health agency licensed under IC 16-27-1;
13 (C) is a community mental retardation and other
14 developmental disabilities center (as defined in IC 12-7-2-39);
15 or
16 (D) is a supervised group living facility licensed under
17 IC 12-28-5.

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(b) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or nonpublic school.

(d) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the health professions bureau established by IC 25-1-5-3 if the request is:

(1) made through the computer gateway that is administered by the intelnet commission under IC 5-21-2 and known as accessIndiana; and

(2) part of a background investigation of a practitioner or an individual who has applied for a license issued by a board (as defined in IC 25-1-9-1).

SECTION 2. IC 25-1-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The board may order a practitioner to submit to a reasonable physical or mental examination, **at the practitioner's own expense**, if the practitioner's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

SECTION 3. IC 25-1-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. Practitioners who have been subjected to disciplinary sanctions may be required by a board to pay for the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photoduplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.



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(8) Depositions.

(9) Notarizations.

(10) Administrative law judges.

SECTION 4. IC 25-23-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) There is established the Indiana state board of nursing consisting of ~~eight (8)~~ **nine (9)** members appointed by the governor, each to serve a term of four (4) years subject to death, resignation, or removal by the governor.

(b) Five (5) of the board members must be registered nurses who are committed to advancing and safeguarding the nursing profession as a whole. Two (2) of the board's members must be licensed practical nurses. One (1) member of the board, to represent the general public, must be a resident of this state and not be associated with nursing in any way other than as a consumer. Members appointed under this subsection may not be advanced practice nurses.

~~(b)~~ **(c) One (1) of the board members must be an advanced practice nurse.**

(d) Each appointed board member may serve until the member's successor has been appointed and qualified. Any vacancy occurring in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term. Members of the board may be appointed for more than one (1) term. However, no person who has served as a member of the board for more than six (6) consecutive years may be reappointed. Reappointments of persons who have served six (6) consecutive years as a member of the board may be made after three (3) years have elapsed.

SECTION 5. IC 25-23-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The board shall meet annually. At its first meeting of the calendar year, it shall elect from the membership a president, a vice president, and a secretary. It shall hold such other meetings during the year as may be necessary for the transaction of its business.

~~(b) Three (3) registered nurse members, including one (1) officer of the board, constitute a quorum for consideration of all matters pertaining to registered nursing. A majority vote of the quorum is required for action of the board.~~

~~(c) One (1) licensed practical nurse member and three (3) registered nurse members of the board, including one (1) officer, constitute a quorum for consideration of all matters pertaining to practical nursing. A majority vote of the quorum is required for action of the board.~~

(b) Five (5) members of the board constitute a quorum. An affirmative vote of a majority of the members appointed to the



board is required for action of the board.

SECTION 6. IC 25-23-1-7, AS AMENDED BY P.L.181-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The board shall do the following:

- (1) Adopt under IC 4-22-2 rules necessary to enable it to carry into effect this chapter.
 - (2) Prescribe standards and approve curricula for nursing education programs preparing persons for licensure under this chapter.
 - (3) Provide for surveys of such programs at such times as it considers necessary.
 - (4) Accredite such programs as meet the requirements of this chapter and of the board.
 - (5) Deny or withdraw accreditation from nursing education programs for failure to meet prescribed curricula or other standards.
 - (6) Examine, license, and renew the license of qualified applicants.
 - (7) Issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings.
 - (8) Cause the prosecution of all persons violating this chapter and have power to incur necessary expenses for these prosecutions.
 - (9) Adopt rules under IC 4-22-2 that do the following:
 - (A) Prescribe standards for the competent practice of registered, practical, and advanced practice nursing.
 - (B) Establish with the approval of the medical licensing board created by IC 25-22.5-2-1 requirements that advanced practice nurses must meet to be granted authority to prescribe legend drugs and to retain that authority.
 - (10) Keep a record of all its proceedings.
 - (11) Collect and distribute annually demographic information on the number and type of registered nurses and licensed practical nurses employed in Indiana.
 - (12) Adopt rules and administer the interstate nurse licensure compact under IC 25-23.2.
- (b) The board may do the following:
- (1) Create ad hoc subcommittees representing the various nursing specialties and interests of the profession of nursing. Persons appointed to a subcommittee serve for terms as determined by the board.
 - (2) Utilize the appropriate subcommittees so as to assist the board with its responsibilities. The assistance provided by the

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subcommittees may include the following:

- (A) Recommendation of rules necessary to carry out the duties of the board.
- (B) Recommendations concerning educational programs and requirements.
- (C) Recommendations regarding examinations and licensure of applicants.

(3) Appoint nurses to serve on each of the ad hoc subcommittees.

(4) Withdraw from the interstate compact under ~~IC 25-32-2~~
IC 25-23.2.

(c) Nurses appointed under subsection (b) must:

- (1) be committed to advancing and safeguarding the nursing profession as a whole; and
- (2) represent nurses who practice in the field directly affected by a subcommittee's actions.

SECTION 7. IC 25-23-1-19.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 19.8. (a) Before December 31 of an even-numbered year, the bureau shall randomly audit at least one percent (1%) but not more than ten percent (10%) of the practice agreements of advanced practice nurses with authority to prescribe legend drugs under section 19.5 of this chapter to determine whether the practice agreement reflects compliance with legal requirements.**

(b) The bureau or the bureau's designee may conduct the audit required under subsection (a). The audit may include the following:

- (1) Requiring the advanced practice nurse and the licensed practitioner who have entered into a practice agreement to appear before the bureau or the bureau's designee to provide evidence of compliance with the practice agreement.**
- (2) Requiring the advanced practice nurse to provide the bureau with a copy of verification of attendance at or completion of a continuing education course or program the advanced practice nurse attended during the previous three (3) years.**

(c) Not more than sixty (60) days after the completion of the audit required in subsection (a), the bureau shall provide the board with the following:

- (1) A summary of the information obtained in the audit.**
- (2) A statement regarding whether an advanced practice nurse and a licensed practitioner that have entered into a**



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1 practice agreement that is audited under subsection (a) are
 2 operating within the terms of the practice agreement.

3 The bureau shall also provide a copy of the information described
 4 in this subsection to the board that regulates the licensed
 5 practitioner.

6 (d) The bureau may cause to be served upon the advanced
 7 practice nurse an order to show cause to the board as to why the
 8 board should not impose disciplinary sanctions under IC 25-1-9-9
 9 on the advanced practice nurse for the advanced practice nurse's
 10 failure to comply with:

11 (1) an audit conducted under this section; or

12 (2) the requirements of a practice agreement under this
 13 chapter.

14 (e) The board shall hold a hearing in accordance with IC 4-21.5
 15 and state the time and location of the hearing in the order served
 16 under subsection (d).

17 (f) The board that regulates the licensed practitioner may cause
 18 to be served upon the licensed practitioner an order to show cause
 19 to the board as to why the board should not impose disciplinary
 20 sanctions under IC 25-1-9-9 on the licensed practitioner for the
 21 licensed practitioner's failure to comply with:

22 (1) an audit conducted under this section; or

23 (2) the requirements of a practice agreement under this
 24 chapter.

25 (g) The board that regulates the licensed practitioner shall hold
 26 a hearing in accordance with IC 4-21.5 and state the time and
 27 location of the hearing in the order served under subsection (f).

28 (h) An order to show cause issued under this section shall
 29 comply with the notice requirements of IC 4-21.5.

30 SECTION 8. IC 25-29-6-1 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A license to practice
 32 podiatric medicine expires ~~four (4) years after the license is issued on~~
 33 ~~a date established by the bureau under IC 25-1-5-4 in each~~
 34 ~~odd-numbered year.~~

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1437, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 16, delete "electronically;" and insert "**through the computer gateway administered by the intelenet commission under IC 5-21-2 and known as accessIndiana;**".

Page 3, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 4. IC 25-23-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) There is established the Indiana state board of nursing consisting of eight (8) members appointed by the governor, each to serve a term of four (4) years subject to death, resignation, or removal by the governor.

(b) Five (5) of the board members must be registered nurses who are committed to advancing and safeguarding the nursing profession as a whole **and one (1) of whom must be an advanced practice nurse.** Two (2) of the board's members must be licensed practical nurses. One (1) member of the board, to represent the general public, must be a resident of this state and not be associated with nursing in any way other than as a consumer.

(b) (c) Each appointed board member may serve until the member's successor has been appointed and qualified. Any vacancy occurring in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term. Members of the board may be appointed for more than one (1) term. However, no person who has served as a member of the board for more than six (6) consecutive years may be reappointed. Reappointments of persons who have served six (6) consecutive years as a member of the board may be made after three (3) years have elapsed."

Page 3, between lines 17 and 18, begin a new paragraph and insert:

"(c) **Notwithstanding subsection (b), at least three (3) registered nurse members must be present for consideration of the following:**

(1) **Disciplinary matters pertaining to an allegation that a registered nurse has undertaken professional activities that the registered nurse is not qualified by training or experience to undertake.**

(2) **Matters related to programs for educating persons in the registered nursing profession.**

(d) **Notwithstanding subsection (b), at least one (1) licensed practical nurse member must be present for consideration of the following:**

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(1) Disciplinary matters pertaining to an allegation that a licensed practical nurse has undertaken professional activities that the licensed practical nurse is not qualified by training or experience to undertake.

(2) Matters related to programs for educating persons in the licensed practical nursing profession."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1437 as introduced.)

BROWN C, Chair

Committee Vote: yeas 11, nays 0.

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REPORT OF THE PRESIDENT
PRO TEMPORE

Mr. President: Pursuant to Senate Rule 65(b), I hereby report that Engrossed House Bill 1437, currently assigned to the Committee on Rules and Legislative Procedure, be reassigned to the Committee on Health and Provider Services.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1437, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 21, begin a new paragraph and insert:

"SECTION 1. IC 10-13-3-36, AS ADDED BY SEA 257-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 36. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

(1) that has been in existence for at least ten (10) years; and

(2) that:

(A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;

(B) is a home health agency licensed under IC 16-27-1;

(C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39); or

(D) is a supervised group living facility licensed under IC 12-28-5.

(b) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or nonpublic school.

(d) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the health professions bureau established by IC 25-1-5-3 if the request is:

(1) made through the computer gateway that is administered by the intelenet commission under IC 5-21-2 and known as

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accessIndiana; and

(2) part of a background investigation of a practitioner or an individual who has applied for a license issued by a board (as defined in IC 25-1-9-1)."

Page 3, line 6, strike "eight (8)" and insert "**nine (9)**".

Page 3, line 11, after "whole" insert ".".

Page 3, line 11, delete "and one (1) of whom must be an advanced practice nurse."

Page 3, line 15, after "consumer." insert "**Members appointed under this subsection may not be advanced practice nurses.**".

Page 3, line 16, after "(c)" insert "**One (1) of the board members must be an advanced practice nurse.**

(d)".

Page 3, line 39, delete "Four (4)" and insert "**Five (5)**".

Page 3, line 39, delete "A" and insert "**An affirmative**".

Page 3, line 40, delete "majority".

Page 3, line 40, delete "the quorum" and insert "**a majority of the members appointed to the board**".

Page 3, delete lines 41 through 42.

Page 4, delete lines 1 through 15.

Page 5, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 9. IC 25-23-1-19.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 19.8. (a) Before December 31 of an even-numbered year, the bureau shall randomly audit at least one percent (1%) but not more than ten percent (10%) of the practice agreements of advanced practice nurses with authority to prescribe legend drugs under section 19.5 of this chapter to determine whether the practice agreement reflects compliance with legal requirements.**

(b) The bureau or the bureau's designee may conduct the audit required under subsection (a). The audit may include the following:

(1) Requiring the advanced practice nurse and the licensed practitioner who have entered into a practice agreement to appear before the bureau or the bureau's designee to provide evidence of compliance with the practice agreement.

(2) Requiring the advanced practice nurse to provide the bureau with a copy of verification of attendance at or completion of a continuing education course or program the advanced practice nurse attended during the previous three (3) years.



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(c) Not more than sixty (60) days after the completion of the audit required in subsection (a), the bureau shall provide the board with the following:

- (1) A summary of the information obtained in the audit.
- (2) A statement regarding whether an advanced practice nurse and a licensed practitioner that have entered into a practice agreement that is audited under subsection (a) are operating within the terms of the practice agreement.

The bureau shall also provide a copy of the information described in this subsection to the board that regulates the licensed practitioner.

(d) The bureau may cause to be served upon the advanced practice nurse an order to show cause to the board as to why the board should not impose disciplinary sanctions under IC 25-1-9-9 on the advanced practice nurse for the advanced practice nurse's failure to comply with:

- (1) an audit conducted under this section; or
- (2) the requirements of a practice agreement under this chapter.

(e) The board shall hold a hearing in accordance with IC 4-21.5 and state the time and location of the hearing in the order served under subsection (d).

(f) The board that regulates the licensed practitioner may cause to be served upon the licensed practitioner an order to show cause to the board as to why the board should not impose disciplinary sanctions under IC 25-1-9-9 on the licensed practitioner for the licensed practitioner's failure to comply with:

- (1) an audit conducted under this section; or
- (2) the requirements of a practice agreement under this chapter.

(g) The board that regulates the licensed practitioner shall hold a hearing in accordance with IC 4-21.5 and state the time and location of the hearing in the order served under subsection (f).

(h) An order to show cause issued under this section shall comply with the notice requirements of IC 4-21.5."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1437 as printed February 11, 2003.)

MILLER, Chairperson

Committee Vote: Yeas 10, Nays 0.

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